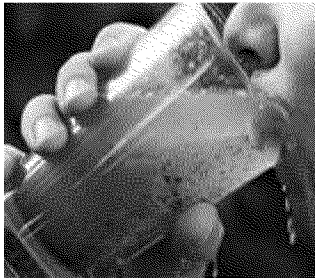


To: Bartlett, Deane[Bartlett.Deane@epa.gov]; Bogoshian, Matthew[Bogoshian.Matt@epa.gov]; Cozad, David[Cozad.David@epa.gov]; Dierker, Carl[Dierker.Carl@epa.gov]; Dolph, Becky[Dolph.Becky@epa.gov]; Field, Stephen[Field.Stephen@epa.gov]; Frankenthaler, Douglas[Frankenthaler.Douglas@epa.gov]; Frey, Bert[frey.bertram@epa.gov]; Gable, Kelly[Gable.Kelly@epa.gov]; Giles-AA, Cynthia[Giles-AA.Cynthia@epa.gov]; Harrison, Ben[Harrison.Ben@epa.gov]; Kaplan, Robert[kaplan.robert@epa.gov]; Mackey, Cyndy[Mackey.Cyndy@epa.gov]; Michaud, John[Michaud.John@epa.gov]; Mitchell, Stacey[Mitchell.Stacey@epa.gov]; Morgan, Jeanette[Morgan.Jeanette@epa.gov]; Moyer, Robert[Moyer.Robert@epa.gov]; Muller, Sheldon[Muller.Sheldon@epa.gov]; Nalven, Heidi[Nalven.Heidi@epa.gov]; Roberts, Martha[Roberts.Martha@epa.gov]; Rodrigues, Cecil[rodrigues.cecil@epa.gov]; Schaaf, Eric[Schaaf.Eric@epa.gov]; Senn, John[Senn.John@epa.gov]; Shapiro, Mike[Shapiro.Mike@epa.gov]; Shepherdson, Melanie[Shepherdson.Melanie@epa.gov]; Siegal, Tod[Siegal.Tod@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Stern, Allyn[Stern.Alyn@epa.gov]; Theis, Joseph[Theis.Joseph@epa.gov]; Wade, Alexis[Wade.Alexis@epa.gov]; Walker, Mike[Walker.Mike@epa.gov]; Ward, W. Robert[Ward.Robert@epa.gov]; OGC WLO[OGC_WLO@epa.gov]; Conger, Nick[Conger.Nick@epa.gov]; Tozzi, Lauren[Tozzi.Lauren@epa.gov]; Walker, Denise[Walker.Denise@epa.gov]; Matthew, Dayna[Matthew.Dayna@epa.gov]; Charlton, Tom[Charlton.Tom@epa.gov]; Portmess, Jessica[Portmess.Jessica@epa.gov]
From: Turley, Jennifer
Sent: Tue 8/11/2015 2:56:16 PM
Subject: Water Law News for August 11, 2015



Water Law News

for August 11, 2015

Bloomberg Daily Environment Report™
BNA

Coal Mining

Interior Announces Stream Protection Rule Hearings

The Interior Department's Office of Surface Mining Reclamation and Enforcement announced Aug. 10 the schedule for its six public hearings on its proposed stream protection rule and the related draft environmental impact statement....

Drinking Water

New York City to Propose Legionella Control Model

Acting in the wake of a Legionnaires' disease outbreak, New York City is drafting legislation for measures to control the legionella bacterium in large building cooling towers, Mayor Bill de Blasio (D) and City Council Speaker Melissa...

Drinking Water

Obama Signs Bill to Control Harmful Algal Blooms

President Barack Obama signed into law a bill (H.R. 212) to control harmful algal blooms in drinking water. The Senate passed the bill, previously approved by the House, on Aug. 5 (152 DEN A-16, 8/7/15). The legislation, signed Aug. 7, requires...

Hydraulic Fracturing

British Columbia Updates Seismic Event Response

The British Columbia Oil and Gas Commission approved amendments to the provincial Drilling and Production Regulation Aug. 6 to streamline definitions and toughen existing rules. Highlights include listing actions to be taken in the event...

Water Pollution

CBF Won't Appeal Virginia Stream Fencing Ruling

The Chesapeake Bay Foundation will not appeal a Virginia commonwealth court decision saying the Department of Environmental Quality doesn't have to issue a rule requiring farmers to keep cattle out of streams and rivers, CBF senior attorney...

Water Pollution

Discharge Permits Upheld For Everglades Sugar Farms

Water discharge permits for South Florida sugar cane farms don't violate the state's Everglades protection laws, despite nearby waters continuing to exceed the allowable phosphorus limit, a state appeals court ruled (Fla. Audubon...

Water Pollution

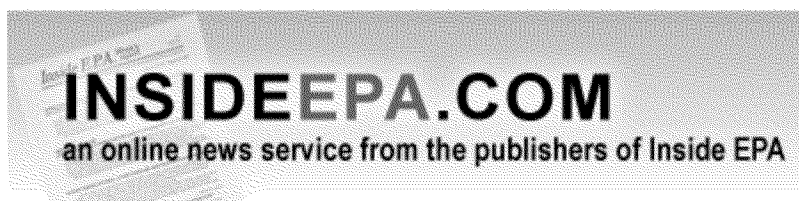
EPA Estimates Colorado Mine Release at 3 Million Gallons

The Environmental Protection Agency says the release of toxic mine waste into the Animas River in southwest Colorado is estimated to be 3 million gallons—three times as large as initially thought. ...

Water Pollution

Olympic Boating Races Pose Health Risks, Experts Say

Scientists and environmental advocates warn that boating events at the 2016 Summer Olympic Games in Rio de Janeiro may pose a health risk because of sewage contamination in the bay and lagoon where the races will be held....



Inside EPA'S Risk Policy Report, 08/11/2015

<http://insideepa.com/newsletters/risk-policy-report>

Latest News

EPA Faces Unclear Superfund Liability For Colorado Mine Wastewater Spill

EPA is facing a lawsuit from at least one tribe as well as potential legal action by states after an agency cleanup crew caused the release of about 3 million gallons of contaminated wastewater during work at a contaminated mine site in Colorado, but it is unclear whether EPA can be held liable for the spill under the waste law.

EPA Revising PFC Water Cleanup Order After Discussions With Air Force

EPA is revising a recently issued water cleanup order for perfluorochemicals (PFCs) that relies on provisional health advisory levels after the Air Force sought changes to the order, even as lawmakers pressure the service to act quickly to address the contamination.

House GOP 'Lease' Plan Seeks To Ease CWA Mitigation Project Obligations

A pending House GOP bill seeks to ease Clean Water Act (CWA) permit holders' obligations to create mitigation banks used to offset damage to waters from permitted activities by establishing a novel "lease" program to terminate the obligations after the permitted activity on the project that they are designed to mitigate is complete.

Greenwire

FISHERIES:

Technology buoys fishermen devastated by cod's collapse

Emily Yehle, E&E reporter

Published: Monday, August 10, 2015



Captain Jim Ford and his crew sort out fish from their first four-hour trawl of the day. Photo by Emily Yehle.

NEWBURYPORT, Mass. -- Jim Ford's workday starts at midnight.

The fisherman attaches two giant nets to a metal frame, loads up his 52-foot trawler and glides out of the dark harbor here into the Gulf of Maine for a 14-hour shift.

The routine once earned Ford as much as \$15,000 a day catching cod. But in the past five years, federal regulators have slashed the catch limit for cod by 95 percent and imposed a near-moratorium on harvesting the iconic species.

Ford now avoids cod, worried that a few good hauls could shut him down for the season. On a recent trip, he was targeting flounder, scraping the gulf's muddy bottom in four-hour trawls and bringing up everything from skates and monkfish to crabs and seaweed.

"You have to stay away from the places where you catch fish," Ford, 44, said as he sat in his boat's wheelhouse, surrounded by computer screens that tell him the water's depth and the boat's location in the black of night.

Through his window, he could see only the moon, bouncing on the horizon, and the occasional reflection of buoys marking shoals. But Ford pointed out the places he once trawled for cod on a screen above his head, filled with hundreds of colored lines from the trips he meticulously records.

Late last year, the National Marine Fisheries Service released an unexpected, midseason stock assessment estimating that the number of spawning cod is 3 to 4 percent of a sustainable population. Within months, cod fishermen -- already operating under shrunken quotas -- had to find a new species to target and build a business around.

And then another blow: By the end of this year, NMFS wants groundfish fishermen to pay for their own "at-sea monitors," the independent observers who collect data on bycatch and ensure fishermen follow the rules. Such monitors can cost \$800 for each day on a boat, and NMFS requires one to be on 20 percent of trips, in addition to the observers NMFS pays to put on board.

Ford and other fishermen say they can't afford it. Without cod, they say, their profit margins are slim.

Here's Ford's budget: On a good day of fishing flounder, he might make \$1,500. His two-man crew gets 25 percent. Fuel costs about \$250. And then there's insurance, maintenance and other recurring expenses. Spending up to \$800 on an at-sea monitor, he said, would make the trip not worth it.

"That's the thing I can't get past -- is the cost of it," Ford said. "I'll tie the boat up before I pay for an observer."

Is there another option?

Dying fish

Most agree that groundfish fishermen can't afford the cost of human observers. NMFS and environmental groups have thus framed it as a short-term solution, to one day be replaced with electronic reporting and monitoring.

But the agency has been slow to roll out either.

Ford has been reporting electronically for almost a decade, without any change in observer coverage. On a recent trip, the observer seemed almost redundant.

Ford's boat, the Lisa Ann III, is part of a study fleet that tests out technology and collects data for NMFS and its parent agency, the National Oceanic and Atmospheric Administration.

Most fishermen fill out a paper or electronic form at the end of a fishing trip, writing down the basics: species caught and discarded, date sold, offloading port. For discarded fish -- or those thrown overboard -- the estimates are particularly poor.

But Ford and 36 other captains use the Electronic Logbook System, entering the specifics of each haul into a computer program that goes right to databases at an NMFS science center. The time and location of each haul are verified through GPS and the boat's vessel monitoring system, while a depth sounder and temperature gauge provide additional data.

Every time Ford hauls up his net, he begins a practiced routine of entering in the estimated pounds for species caught and discarded, adding to one of the largest databases of bycatch for the trawl fishery in the Northeast.

Now a decade in the making, the Electronic Logbook System has collected an enormous amount of data. In 2014, the number of trawls it captured was two-thirds that of the larger observer and at-sea monitoring programs.

But NMFS doesn't use most of that information. In other words, Ford has told NMFS every species he has thrown overboard for years, but the agency estimates his discard from the data collected occasionally by observers and at-sea monitors.

While Ford estimates his discard by sight, observers must weigh and measure. On a recent Wednesday, Ford and his crew quickly separated bycatch from the flounder, sliding over bins of monkfish, lobster and various bottom-dwelling creatures to an observer.

The fishermen were finished within 30 minutes. By then, the flounder was on ice under deck, bright-orange jackets were hung in the wheelhouse and the four-hour wait for another haul had begun.

At the 40-minute mark, Ford, back in his captain's seat, gestured to the observer, still on deck weighing fish in various baskets and making notes in a waterproof notebook.

"I think my biggest problem is having fish on board that are dying," he said. "He still has two boxes of discard left. The fish are dead. 100 percent."

But for the observer, it's a Catch-22. While the fishermen grumble about how long they take -- and the sometimes heavy, awkward equipment they carry -- observers are expected to be accurate. Whatever they measure for discards will count against that fisherman's bycatch quota, as well as others who fish in the same area.

The observer on Ford's boat was thorough but not nitpicky, drawing off more than two years on the job. He skipped the crabs, which have been experiencing a boom, but carefully weighed other species. The whole process took him about an hour.

For his part, Ford was friendly, accommodating -- and openly grumpy about the observer's presence.

Though it's against the rules, some fishermen do not provide a bunk for observers, forcing them to curl up on the floor. But Ford knocked out a cubby specifically for observers; his cabin originally had only one wide platform for his two crewmen to take naps.

"That was nice of you," the observer told him, upon hearing it.

Ford shrugged off the compliment: "I mean, you got to have a bunk to sleep in."

"I've slept on the floor for five days before," the observer said. "It doesn't happen often ... but for multiday, it sucks."

'Screwed' and skeptical

The real sticking point, to Ford: The observer's data on discards aren't more accurate than his own.

After analyzing the data that stretch back to 2006, NOAA's Northeast Cooperative Research Program has found that the data in the Electronic Logbook closely follow the data collected by observers. The logbook data actually are on a finer spatial scale, showing not only what is caught but also the length of the tow track and the temperature at the bottom.

John Hoey, director of the Northeast Fisheries Science Center cooperative research program, thinks the data are now robust enough for additional scientific uses. His office submitted draft reports to include the Electronic Logbook data in recent stock assessments for yellowtail and scup.

It wasn't successful. Hoey is optimistic it will happen, but he acknowledged that getting the data used for fishing regulations and the analyses that inform them -- such as stock assessments -- is difficult.

Regulatory system spawned at-sea monitors

Many problems for the New England groundfish industry began in 2010.

Before then, fishermen only had the occasional observer from the Northeast Fishery Observer Program (NEFOP). Then the National Marine Fisheries Service implemented catch shares, which give fishermen individual quotas rather than days at sea. The management system ensures fishermen stay within annual catch limits, which Congress mandated in 2006.

NMFS credits the switch for rebuilding dozens of fish stocks and drastically cutting down on overfished populations ([*Greenwire*](#), April 15).

In New England fisheries, catch shares came with a voluntary sector program. The system allows vessels to fish with others as a group (called a sector) and to share a portion of the total catch for cod, haddock, pollock and other fish.

Today, most groundfish fishermen belong to a sector. But that comes with far higher monitoring requirements to ensure each sector fishes within its quota. In essence, NEFOP collects data on bycatch and the At-Sea Monitoring Program (ASM) enforces fish quotas.

This year, for example, sector fishermen have an observer or at-sea monitor on their boat for 24 percent of trips. Four percent of that is from NEFOP; the rest is through ASM.

Until now, NMFS has paid for it all, at a cost of millions of dollars each year. But it plans to shift most of the costs of the At-Sea Monitoring Program to fishermen by the end of this year.

The plan has caused panic among fishermen who say it would kill an industry hobbled by the near-moratorium on cod.

Earlier this year, the New England Fishery Management Council voted to temporarily get rid of at-sea

monitors, but NMFS denied the proposal last month (*E&ENews PM*, July 31).

-- *Emily Yehle*

"It's hard to change management programs and stock assessments that are built on long-term time series," he said. "Yet many assessment and management analysts are coming in and saying, 'We want more and more detailed fishing data in there.'"

If there's a person at NOAA who's trusted by groundfish fishermen, it's Hoey. In the 1990s, he was a senior scientist for the National Fisheries Institute, a trade group for the seafood industry. Now he acts as go-between at NOAA -- someone who can work with both fishermen and scientists.

His office is in a trailer on the campus of the University of Rhode Island, on a small hill that overlooks Narragansett Bay. On a recent visit, it was filled with piles of papers and gadgets that Hoey was happy to show off to visitors.

In an agency that can seem like a faceless bureaucracy to fishermen, Hoey is talkative and approachable. That's the point: NOAA established the cooperative research program partly to improve a tension-filled relationship with Northeast fishermen. If fishermen work with scientists, the theory goes, they will be less skeptical of the science.

But some fishermen consider Hoey and his program almost independent of the agency.

"It's the people that we're dealing with that we trust," said Mark Phillips, who has been fishing for more than 40 years. "I know that John is trying to do the best he can, and I know the people he's got working for him are trying to do the best they can."

As for the rest of NOAA?

"Would you trust someone who has screwed you nonstop your whole life?" he said. "Thirty-five years ago, I thought it was different. I don't anymore."

Fishing for data

Speaking with fishermen of the study fleet can feel like an exercise in contradictions. They don't trust NOAA's data, but they are also proud of the role they play in helping science.

Boats in the fleet get reimbursed for equipment and receive a monetary incentive worth a few thousand dollars. In return, they not only use the Electronic Logbook but also participate in various research projects. In one upcoming study, for example, Hoey's staff will use four study fleet boats to conduct research that could help decrease river herring bycatch.

"The guys that are in study fleet believe in study fleet," Phillips said. "That's why it works."

NOAA does use some of the data from the logbooks. For one, the data provide a more accurate picture of where each stock is caught.

Most fishermen fill out a form telling the agency where they fished, using a grid that maps the ocean in boxes. But a boat in the study fleet reports exactly where it fished, through the Electronic Logbook and the GPS connected to it. NOAA combines data from both.

Hoey is most excited about the potential for temperature gauges that measure the ocean bottom. His

office plans to have them on about 70 boats by October, including those already in the study fleet. The gauges report bottom temperatures directly to NOAA, combining them with data on what the fishermen caught.

The result: data that can be used to help predict how fish stocks react to climate change. Oceanographers at NOAA are already integrating it into models.

Hoey's office is also using the data to produce maps aimed at helping fishermen avoid stocks with low catch limits. Such precision has become more important, he said, as fishery management changed to catch shares from days at sea. Catching the targeted species -- with as little bycatch as possible -- is the main objective.

"Their fishing business practices are based on their knowledge of how the world works," Hoey said. "The fish communities are moving, and the fishing communities have to adjust."

But frustrations remain on how NOAA uses -- or doesn't use -- the data for oversight.

The discard data from those logbooks match up with observer data 85 to 90 percent of the time on trips where an observer is present, according to Hoey. Even those that don't match up are not necessarily far apart; discards for some species are in small amounts, so the difference could be a matter of a few pounds.

On Ford's boat, the observer compared his data to Ford's estimate when he was done, as a check to ensure his numbers weren't far off.

Ford recalled that a previous observer had numbers so different, he checked his scale when he got home and found it was calibrated wrong. He called Ford and told him, prompting an uphill -- but ultimately successful -- battle to replace the observer's data with Ford's entries in the Electronic Logbook. It's the only time NMFS has used his data for that regulatory purpose, according to Ford.

On the recent trip, no such problems emerged.

"You have an amazing eye for weight," the observer said, citing near-identical results.

Kids on boats

The observer spoke freely to a reporter on the trip. Dressed in a T-shirt, shorts and Vans sneakers, he appeared at ease on the boat. When he wasn't sleeping or working, he was perched on a corner seat in the wheelhouse, chatting with Ford.

But after he disembarked, his superiors at MRAG Americas -- which holds a multimillion-dollar contract with NOAA to provide observers -- told him he was not cleared to speak to the press. In an email, he said he was "not prepared to have a reporter on board." He asked that his quotes not be included; this article includes only his conversations with Ford.

Observers and at-sea monitors are often college graduates looking for a resume-building job. Their schedules are unpredictable; some trips are 12 hours, others are two weeks. Once on a boat, they rely on the hospitality of fishermen, many of whom don't want them there.

Even Ford gets in a passive dig, in the form of a sign above the cabin that says, "Annoying Observers Will Be Sent to the Observatory." His wife, a middle school teacher, made it, along with a twin sign above the observer's small bunk that labels it as the aforementioned Observatory.

Tensions have only risen since 2010, when NMFS drastically increased the number of watchdogs on the boats of groundfish fishermen through the At-Sea Monitoring Program. Fishermen now have someone on their boat for 24 percent of their trips.

The prospect of paying for most of those trips, at a cost of millions each year, hasn't improved the animosity.

NMFS has suggested another option: States could use fishery disaster funds they received last year to fill the gap. Out of \$75 million Congress doled out to fisheries in economic distress, \$33 million went to New England states to help the groundfish fishery (*Greenwire*, May 29, 2014).

Some fishermen aren't crazy about that idea, either.

"You can't take job relief money and use it to fund observers," Ford said. "That's a slap in the face."

The Environmental Defense Fund sees it differently. The advocacy group has pushed NMFS to use electronic monitoring, placing cameras on vessels in place of people.

Until then, states should use the disaster funding, said Matt Mullin, EDF's Northeast regional director.

"I think that's the crux of the problem right now. The current human observer program in New England is very, very expensive and only monitors 20 percent of the trips. Fishermen can't pay for it, and the government can't pay for it out of the current budget," he said, asserting that the agency needs to transition to electronic monitoring. "In the interim, use whatever dollars we have. Because otherwise, what are we going to do?"

The problem is complicated by the plight of Gulf of Maine cod. With the recent stock assessment showing the population at a historic low, NMFS is worried more than ever about unreported discards.

The industry is at a crossroads, struggling to both find profitable stocks and pay for expensive oversight.

Big Brother?

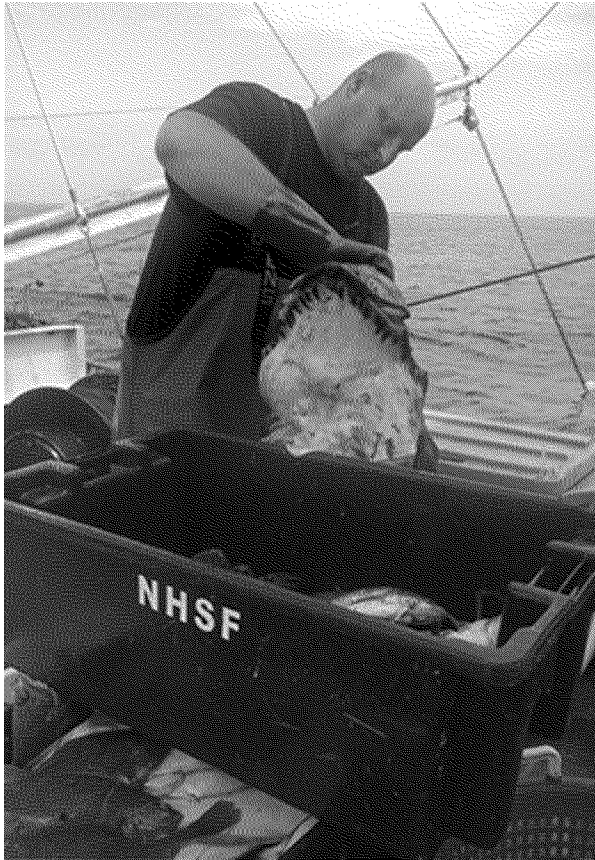
When Ford sets out on his daily trip, he is alone; only a couple of other boats dock in Newburyport, which sports a quaint downtown where tourists can buy fishing-themed souvenirs. Throughout the Northeast, the number of groundfish fishermen has decreased, and those who are still around are taking fewer trips, partly because of the limits on cod.

More fishermen will exit if they also have to pay for expensive at-sea monitors. But could the Electronic Logbook help? The system is cheap: a \$1,000 laptop, \$600 for installation and up to \$120 a month for data.

Both Ford and Phillips expressed skepticism about launching the logbook beyond the study fleet, citing the need for training and the fact that it is more labor-intensive than the paper forms.

Mullin similarly emphasized its limits.

"The whole point ... is to collect timely, accurate and verifiable data," Mullin said. "Electronic reporting is more accurate and timely, but it's not verifiable."



Captain Jim Ford on the deck of his 52-foot trawler in the Gulf of Maine. Photo by Emily Yehle.

That's where electronic monitoring comes in.

The Maine Coast Fishermen's Association is hoping to lead the way. It is in the third year of a pilot project on electronic monitoring, with the aim of getting NMFS to accept its use in lieu of at-sea monitors by next year.

Ben Martens, the association's executive director, described the system as a potential solution to a multifaceted problem.

Observers and at-sea monitors currently cover only 24 percent of trips, leaving 76 percent of trips completely unmonitored. That makes conservationists nervous. Fishermen have a strong incentive to throw away cod; it's hard to catch other groundfish without bringing it up, and any catch brings them closer to reaching their quota and getting shut down.

With electronic monitoring, fishermen would always have a camera on their boat. While they know when observers are on board, they would not know what parts of the video would be viewed. Martens asserts that 10 percent of the video would need to be audited in a "trust-but-verify" system.

"It always blows my mind that we've decided that it makes more sense to put what are essentially kids on boats and go track fish discards," Martens said, later adding: "The goal of our project hasn't been another pilot project. It's been implementation."

But it's limited. The system is best for gill nets and longlines, where fish are brought up individually or in

small batches. For trawlers like Ford's, it is less effective, since such boats dump large amounts of fish on deck.

And while installing the system is relatively cheap, paying people to sit at a computer and watch hours of video is not. If NMFS decides a 10 percent audit is not sufficient, the cost could become a problem.

Then there's whether fishermen will accept the idea of a camera on their boat. Phillips called himself "petrified" of the idea.

"I don't like the idea of it," he said. "One of the issues I have with electronic monitoring is that we'll just review and review and review until we find something we can attack the fishermen for."

Martens has modest goals: Get NMFS to allow a sector of groundfish fishermen in Maine to use it. But the Cape Cod Commercial Fishermen's Alliance also wants to put it on the groundfish boats in a sector that includes 63 boats and accounts for 17 percent of the at-sea monitoring trips.

The high cost of at-sea monitors -- and NMFS's plans to hand off the cost to fishermen -- has "made this good idea a great idea," said John Pappalardo, the alliance's executive director.

He downplayed the potential challenge of getting fishermen to agree to cameras, pointing out that boats are already tracked through the vessel monitoring system.

"The only thing these camera do that's new is take a human being off your boat and put a camera on your boat," he said, later adding: "I think there's enough pressure nationally to make this an option."

WATER POLLUTION:

EPA spill in Colo. river 3 times larger than first thought

Jennifer Yachnin, E&E reporter

Published: Monday, August 10, 2015

U.S. EPA believes a spill it inadvertently caused led to nearly 3 million gallons of rust-colored wastewater entering a creek that feeds Colorado's Animas River, a threefold increase from initial estimates last week, an agency official said yesterday.

An EPA team investigating mining contamination at the Gold King Mine north of Silverton in San Juan County accidentally triggered the spill Wednesday, ejecting the water contaminated with arsenic and other heavy metals into Cement Creek.

Although EPA officials said last week that the blowout likely leaked 1 million gallons of contaminated water, EPA toxicologist Deborah McKean told the Associated Press yesterday that the agency increased its estimate based on a stream gauge from the U.S. Geological Survey.

Although EPA will continue to monitor the Animas River for contamination levels, McKean said it was unlikely the spill "caused significant health effects" to animals in contact with the river because the brightly colored sludge moved fairly quickly downstream. The spill traveled 100 miles over the weekend as it crossed into New Mexico and will eventually reach Lake Powell, the San Juan River and the Colorado River.

But officials in Durango, Colo., which depends on the Animas River for its drinking water, turned off an

intake valve before the contamination reached it, Durango Mayor Dean Brookie said yesterday, according to *The Denver Post*.

"Your water never has been and never will be contaminated," Brookie said. "Your water is safe to drink."

But *The Denver Post* said some Colorado residents who live along the river reported discolored drinking water. McKean said EPA is testing water and will provide drinking water to residents who require it.

Region 8 Administrator Shaun McGrath told the *Los Angeles Times* yesterday that laboratory testing would be completed today.

"The EPA has recognized the significance of this event, and we are responding accordingly," McGrath said. "Hopefully, we will get the results soon so we can understand the impact on agriculture, stock water, swimming, boating and human contact."

McGrath added that because heavy metals can remain in the river bottom and could be disturbed by future rain or runoff, testing will need to continue into the foreseeable future.

"We will have to do long-term monitoring and probably more closures in the future," he said.

KEYSTONE XL:

TransCanada mulls options as pipeline decision looms

Published: Monday, August 10, 2015

TransCanada Corp., the Canadian company behind the controversial Keystone XL pipeline, is working on a next move as the White House signals both privately and publicly a rejection of the project's permit is imminent, according to a source close to the deal.

TransCanada is considering the legal and political implications of various reactions, including a challenge under the North American Free Trade Agreement or refile for a permit before the 2016 presidential election, according to the source (*Greenwire*, Aug. 5).

"The rumor is that the decision to deny has been made, and they're just waiting for the right time and venue," the source said.

He said the company will likely wait for a while after an announcement to launch its plan.

David Gantz, who teaches trade law at the University of Arizona, called a NAFTA challenge "an expensive way to do a long shot" while potentially antagonizing the United States, which has never lost any of the 14 NAFTA appeals filed against it.

"They can talk about doing it, but my guess is once they have consulted with counsel ... they will decide it's -- if not a long shot, then well under a 50-50 chance," he said, arguing the company should hope for a friendlier administration in 2017.

Debra Steger, the first director of the World Trade Organization's appellate body and now a law professor at the University of Ottawa, said TransCanada should try, citing a Nova Scotia quarry that recently prevailed over the Canadian government in the Bilcon case.

Another application for a pipeline permit could make Keystone XL a key election issue as Republicans blast President Obama for stalling and Democrats pressure party front-runner Hillary Clinton to come out against the project.

"No matter what they try, not an ounce of TransCanada's toxic pipeline will touch Nebraska's soil," activist Jane Kleeb said. "At some point, TransCanada's investors are going to fire the CEO for wasting billions of dollars and years on a pipeline going nowhere."

TransCanada chief executive Russ Girling has said the company will do everything it can to protect shareholders but is focusing on getting a permit approved by Obama's administration (Alexander Panetta, [Canadian Press/CBC News](#), Aug. 9). -- DTB

NATIONAL PARKS:

Olympic bans recreational fishing as drought takes hold

Published: Monday, August 10, 2015

The National Park Service today closed recreational fishing on most rivers and streams in Olympic National Park as historic drought conditions have brought low water levels and elevated water temperatures.

"Pacific salmon and trout show signs of physiological stress at water temperatures above 60 degrees Fahrenheit, with lethal effects beginning at 70 degrees," wrote Barb Maynes, spokeswoman for the park in northwestern Washington, in a news release.

The closure on all but a few high-elevation lakes likely ends the summer fishing season as the next significant rains are not expected until October (Ted Land, [KING 5 Television](#), Aug. 9). -- DTB

EDUCATION:

Drought-caused exodus puts Head Start centers in limbo

Published: Monday, August 10, 2015

In Five Points, Calif., a dusty stretch of Fresno County that is among the areas hardest hit by the state's drought, so many people are leaving town that needed services are on the cusp of shutting down for the people left behind.

Federally funded Migrant Head Start centers offer free child care and developmental services for the children of migrant farmworkers. With the ongoing drought, at least two of the centers may not reopen next farm season because there are not enough children to use them. Another one in the area closed earlier this year.

"We used to have a line out the door," Fresno Head Start Director Flora Chacon said. "There was a waiting list."

That has organizers scrambling to find families who may not be aware of the options.

Diana Toscano, who works at one of the centers, may lose her job if they close. If that happens, she might move to Colorado.

"There's water over there," Toscano said (Cindy Carcamo, [Los Angeles Times](#), Aug. 10). -- SP

SALMON:

Tribes call for Klamath water release to save fish

Published: Monday, August 10, 2015

Two American Indian tribes are calling on the Bureau of Reclamation to increase the Klamath River's flow to save salmon from a deadly disease spurred by drought conditions up and down the West Coast.

The Hoopa Valley and Yurok tribes want more water released from dams to provide a cooler, deeper channel for the 120,000 chinook salmon heading up the Klamath River along the Oregon-California border to spawning grounds in about three weeks.

Ichthyophthirius multifiliis, or "ich," transmission fueled by low, warm water levels in 2002 triggered mass fish die-offs, raising concerns this year as drought grips waterways from Washington state to California.

"What we're seeing could be catastrophic," said Michael Belchick, a biologist for the Yurok Tribe.

A Reclamation spokeswoman said the agency will confer with scientists over the next several weeks before making a decision on increasing flows.

Meanwhile, some 5,400 rainbow trout died in the heat at a hatchery north of Seattle last week, according to the Washington Department of Fish & Wildlife (Courtney Sherwood, [Reuters](#), Aug. 7). -- DTB

PANAMA:

Drought leads officials to cut canal draft

Published: Monday, August 10, 2015

Drought caused by the El Niño weather event is prompting the Panama Canal Authority to cut the draft of ships allowed through it.

The allowable draft, or depth in the water, will drop from 39.5 feet to 39 feet on Sept. 8, and potentially to 38.5 feet on Sept. 16.

The restriction could affect up to 20 percent of traffic through the canal.

El Niño is forecast to be much stronger than usual this year, causing extreme weather variations worldwide ([ClimateWire](#), July 13).

The action was taken because water levels in the Gatun and Alhajuela lakes have fallen ([BBC News](#), Aug. 8). -- BTP

AGRICULTURE:

Cotton farmers struggle through drought

Published: Monday, August 10, 2015

California, once the world's largest producer of Pima cotton, is struggling to grow the thirsty cash crop in the face of the state's ongoing drought.

"It's the world's finest cotton," said Jim Neufeld, a third-generation cotton farmer in Wasco at the southern end of California's San Joaquin Valley. He planted 250 acres of cotton this season, down from a peak of 11,000 acres in the 1990s.

"It simply doesn't fit into today's environment," he said.

Pima cotton brought in \$500 million in sales last year, almost all of it grown in California, and usually commands at least twice the price of the more common variety, upland cotton. While most cotton production in California has declined in recent decades, hurt by recurring droughts that drain water levels and increasingly pesticide-resistant insects like the pink bollworm, the Pima cotton industry has thrived until this year.

Pima, sometimes referred to as the "cashmere of cottons," has longer, stronger fibers than upland cotton, improving its softness and luster.

The crop's higher prices meant farmers could afford to pay more for water, and the relatively arid San Joaquin Valley was seen as a perfect location to grow cotton to rival premium Egyptian varieties. After being introduced in the area in the 1990s, California's Pima cotton production soared to No. 1 in the world in 2011.

Farmers have been cutting back on production nowadays and using more efficient drip irrigation. But environmentalists have criticized California's continued support of the cotton industry in the state.

"When water is short in California, it's crazy for the government to be subsidizing luxury crops like Pima cotton," said Tom Stokely, a water policy analyst at the California Water Impact Network. "It just doesn't make sense. It's not something that benefits the public at large."

Investments made during the boom years have made farmers reluctant to give up on their cash crop, though. Neufeld and other local farmers spent \$4.5 million to build a specialized Pima gin in the late 1990s, he said.

"To turn around and junk it now would be too disheartening," Neufeld said. "We may be forced to give it up -- we don't know -- but I'm one of those guys really trying to make it work" (Hiroko Tabuchi, *New York Times*, Aug. 7). -- BTP

FEDERAL AGENCIES:

Poor-performing buildings hemorrhaging cash -- GAO

Robin Bravender, E&E reporter

Published: Monday, August 10, 2015

The government's landlord has been losing tens of millions of dollars each year on badly performing buildings, federal watchdogs have found.

About 100 poorly performing federal buildings were responsible for average annual losses of almost \$36 million, according to a new [report](#) from the Government Accountability Office.

Just 33 of those buildings accounted for the vast majority -- nearly 93 percent -- of the overall loss, the report found. Those 33 buildings lost \$100,000 or more annually between 2009 and 2013. Twelve of those buildings are located in Washington, D.C., and seven of those are associated with the White House.

Among the reasons GSA buildings are losing cash are rent limitations, problems filling vacant space, and high operations and maintenance costs, according to GAO. The report found, however, that GSA has worked to improve buildings' performance by taking steps to move federal tenants into owned space, leasing space to non-federal tenants, and reducing operating and maintenance costs.

The report underscores the need to improve the management of the government's badly performing properties, several senators said last week in a statement.

The GAO "report shows that the [GSA] needs to take action to make its federal building inventory, including some consistently underperforming buildings, more sustainable for the long-run," said Sen. Tom Carper (D-Del.). "I am encouraged to see that GSA has already taken steps to improve the financial performance of many of these buildings and is working to develop a comprehensive plan to address the recommendations in this report."

Sen. John Barrasso (R-Wyo.) said, "The fact that 20 percent of GSA buildings were consistently classified as nonperforming or underperforming is unacceptable. ... This report should serve as a clear wakeup call for why we must increase accountability and improve the way the federal government manages its properties."

LOUISIANA:

10 years after Katrina, state spends big to protect coast

Published: Monday, August 10, 2015

A decade after Hurricane Katrina devastated Louisiana, the state is undertaking an ambitious flood protection program that could be a model for other low-lying areas in a warming world.

Congress appropriated \$14 billion for a 350-mile ring of protection around New Orleans consisting of bigger and stronger levees, large gates that can be closed against storms, and a 2-mile "Great Wall of Lake Borgne" that can seal off the canal that devastated the city's Lower 9th Ward in 2005. Pump stations are also being built to prevent New Orleans' three main drainage canals from being overwhelmed.

Outside the city, Louisiana is working on "green infrastructure" to protect against future weather by restoring barrier islands and the bayou's many wetlands. This is all part of the state's 50-year, \$50 billion "master plan" for a future with potentially more destructive weather.

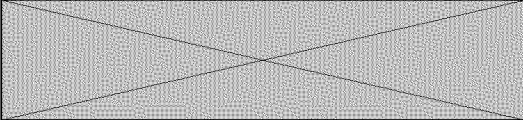
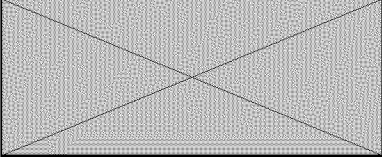

"We are at the forefront of addressing the issues caused by climate change," said Chip Kline, Louisiana's top coastal official.

Other states are seeing the writing on the wall with regard to climate change and are looking at their own flood protection plans.

New York and New Jersey are considering multibillion-dollar proposals to limit the damage that could be caused by the next storm similar to Superstorm Sandy. Galveston, Texas, wants an "Ike Dike," a great wall to blunt storms like Hurricane Ike in 2008.

Many sources of funding will be drawn on to fund Louisiana's master plan. Federal and state appropriations as well as private funds will be part of the mix, but the state will also receive at least \$6.8 billion from the recently announced \$18.7 billion civil settlement over the Deepwater Horizon oil spill between BP PLC and the federal government, five Gulf Coast states and hundreds of local governments.

Restoring the coast will be expensive, but inaction would be even costlier, said Mark Davis of Tulane University Law School. He said the nation paid one way or another, and the more than \$100 billion in relief is simply replacing what Hurricane Katrina broke. "You didn't buy a future with that money," he said (John Schwartz, *New York Times*, Aug. 7). -- BTP

	
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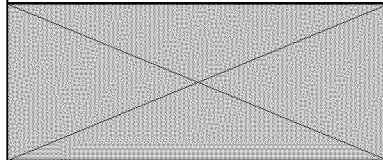
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ENERGYWIRE — Tue., August 11, 2015



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The 'Nest of Europe' comes to America

The company tado° makes gadgets that manage heating and cooling in homes with the goal of saving energy. Based in Germany and growing fast, it is sometimes called the "Nest of Europe" because its high-tech and minimalist aesthetic is similar to Nest, the leading U.S. smart-thermostat company that is owned by Google. In June, tado° debuted a new device to manage in-room air conditioners and simultaneously launched in the United States. Its goal is to reach 100,000 customers in New York City by 2016.

2.FINANCE:

Bankruptcy 101: a primer for U.S. coal markets

The bankruptcy filing by Alpha Natural Resources Inc. last week was the coal industry's biggest yet. It won't likely be the last.

ELECTRICITY

3.ELECTRICITY:

Plan for Texas power company takes shape -- if approvals follow

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5.SOLAR:

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